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BRUCE AND KELLY RICHARD

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BRUCE RICHARD, and KELLY
RICHARD,

Plaintiffs,

vs.

RENT-A-CENTER, INC., and DOES 1
through 10, inclusive,

Defendants.

Case No: 2:15-CV-00572

COMPLAINT FOR:

**(1) VIOLATIONS OF THE
TELEPHONE CONSUMER
PROTECTION ACT**

**(2) VIOLATIONS OF THE
ROSENTHAL FAIR DEBT
COLLECTION PRACTICES ACT**

(3) INVASION OF PRIVACY

**(4) INTENTIONAL INFLECTION
OF EMOTIONAL DISTRESS**

1 Plaintiffs Bruce and Kelly Richard hereby complain against defendants Rent-
2 A-Center, Inc. (“RAC”) and Does 1-10, and allege on information and belief as
3 follows:

4 **OPERATIVE FACTS**

5 1. Plaintiff Bruce Richard entered into a rental-purchase contract with
6 RAC, through one of its Acceptance Now outlets, to acquire furniture on credit,
7 primarily for personal, family, or household use. At another Acceptance Now
8 outlet, both plaintiffs entered into a second rental-purchase contract with RAC to
9 acquire furniture on credit, also primarily for personal, family, or household use.

10 2. RAC began a campaign of debt collection harassment against
11 plaintiffs. RAC called plaintiffs with an unreasonable frequency, as many as 20
12 times a week, using an automatic dialing system. RAC made many of its
13 automated calls to plaintiffs’ cell phones. Plaintiffs asked RAC to stop the
14 harassment, and asked for managers or the corporate office. RAC’s personnel
15 stated that there was no one above them to talk to, and refused to give a number to
16 call the corporate office.

17 3. RAC called plaintiff Kelly Richard’s sister more than once, and told
18 her to pass along messages to her sister Kelly, “before things get worse.” RAC had
19 plaintiffs’ current address and telephone at the time.

20 4. RAC called plaintiff Kelly Richard’s other sister several times, each
21 time asking her to pass on a message to Kelly to call RAC. RAC also asked if
22 Bruce Richard was deployed as active military. RAC had plaintiffs’ current address
23 and telephone at the time.

24 5. Bruce Richard is an active duty member of the military at Camp
25 Pendleton. RAC’s employee or agent, sued herein as Doe No. 1, told Bruce
26 Richard that Doe No. 1 was a retired gunnery sergeant who lived near Camp
27 Pendleton, and that if plaintiff didn’t pay, RAC would contact his first sergeant at
28 the base and “get in front” of him to embarrass plaintiff. Doe No. 1 did in fact call

1 Bruce Richard's superior at the base, and left a message that he should call "Retired
2 Gunnery Sergeant Craig Wady."

3 6. RAC threatened plaintiffs orally with a small claims lawsuit, and in
4 writing "to file a lawsuit against you without further notice." RAC never filed a
5 lawsuit.

6 7. RAC threatened to repossess plaintiff's furniture, when such property
7 is exempt from repossession pursuant to Code of Civil Procedure § 704.020, and
8 the Soldiers and Sailors Relief Act.

9 8. Plaintiffs sent letters to RAC refusing to pay the account, which
10 triggered RAC's statutory duty under the Rosenthal Act to cease all contact with
11 plaintiffs. Angered by plaintiffs' letters, RAC's personnel continued their
12 harassment, making more calls to plaintiffs.

13 9. The harassment took an emotional toll on both plaintiffs, and
14 especially Kelly Richard. As a result of the harassment, she became depressed,
15 afraid to leave the house, and unable to take her kids to school. She had to drop a
16 class at her local college, and her sister had to come live with her to assist with
17 daily living.

18 **JURISDICTION AND VENUE**

19 10. The court has federal question jurisdiction over this matter pursuant to
20 47 U.S.C. § 227(b)(3). The court has supplemental jurisdiction over the state law
21 claims pursuant to 28 U.S.C. § 1367.

22 11. Venue is proper in the Central District of California because a
23 substantial part of the events or omissions giving rise to the claim occurred in this
24 district, and defendants are subject to the court's personal jurisdiction in this
25 district.

26 **PARTIES**

27 12. Plaintiffs are natural persons over the age of 18 years and are residents
28 of the state of California.

1 13. Defendant Rent-A-Center, Inc. is a Delaware Corporation
2 headquartered in Plano, Texas.

3 14. Defendants Does 1 through 10 are persons or entities whose true
4 names and capacities are presently unknown to plaintiff, and who therefore are sued
5 by such fictitious names. Plaintiff is informed and believes and thereon alleges
6 that each of the fictitiously named defendants perpetrated some or all of the
7 wrongful acts alleged herein, is responsible in some manner for the matters alleged
8 herein, and is jointly and severally liable to plaintiff. Plaintiff will seek leave of
9 court to amend this complaint to state the true names and capacities of such
10 fictitiously named defendants when ascertained.

11 15. At all times mentioned herein, each defendant was the agent or
12 employee of each of the other defendants and was acting within the course and
13 scope of such agency or employment. The defendants are jointly and severally
14 liable to plaintiff.

15 **FIRST CAUSE OF ACTION**
16 **(Against All Defendants for Violations Of The Telephone Consumer**
 Protection Act, 47 U.S.C. § 227).

17 16. Plaintiff realleges and incorporates herein by reference the allegations
18 of all paragraphs above.

19 17. Defendants utilized an automatic telephone dialing system to call
20 plaintiffs and their family, which has the capacity to store or produce telephone
21 numbers to be called, using a random or sequential number generator; and to dial
22 such numbers.

23 18. In violation of 47 U.S.C. § 227(b)(1), defendants used their automatic
24 telephone dialing system to call the cellular phones of plaintiffs and their family
25 members.

26 19. Plaintiffs seek an injunction to stop any further automated calls to their
27 cell phones, or to the general public's cell phones.

28 20. Plaintiffs are entitled to recover their actual monetary loss from

1 defendants' violations, or to receive \$500 in damages for each such violation,
2 whichever is greater, pursuant to 47 U.S.C. § 227(b)(3).

3 21. Defendants willfully or knowingly violated the TCPA or its
4 implementing regulations, thereby entitling plaintiffs to treble damages pursuant to
5 47 U.S.C. § 227(b)(3).

6 WHEREFORE, plaintiffs pray for relief as set forth below.

7 **SECOND CAUSE OF ACTION**

8 **(Against all Defendants for Violations of the Rosenthal Fair Debt Collection
Practices Act, Cal. Civil Code § 1788 et seq.)**

9 22. Plaintiff realleges and incorporates herein by reference the allegations
10 of all paragraphs above.

11 23. The California Legislature has found that "unfair or deceptive debt
12 collection practices undermine the public confidence which is essential to the
13 continued functioning of the banking and credit system and sound extensions of
14 credit to consumers." Cal. Civ. Code § 1788.1(a)(2). It thus enacted the Rosenthal
15 Fair Debt Collection Practices Act, Cal. Civ. Code §§ 1788, et seq. (the "Rosenthal
16 Act"), to ensure the integrity of our banking and credit industry. Id. § 1788.1(b).

17 24. Plaintiffs are "debtors" within the meaning of Civil Code § 1788.2(h)
18 in that they are natural persons from whom defendants sought to collect a
19 "consumer debt" alleged to be due and owing by reason of a consumer credit
20 transaction. "Debt" is defined under the Rosenthal Act to mean "money, property
21 or their equivalent which is due or owing or alleged to be due or owing from a
22 natural person to another person." Civil Code § 1788.2(d).

23 25. The defendants at all times relevant herein were "debt collectors"
24 within the meaning of Civil Code § 1788.2(c), in that they regularly and in the
25 ordinary course of business, on behalf of themselves or others, engage in acts and
26 practices in connection with the collection of money or property which is due or
27 alleged be due or owing by reason of a consumer credit transaction.

28 26. Defendants violated Civil Code § 1788.10(e) by threatening to seize

1 plaintiffs' property when such action was not permitted by law.

2 27. Defendants violated Civil Code § 1788.11(d) by causing a telephone to
3 ring repeatedly or continuously to annoy the person called.

4 28. Defendants violated Civil Code § 1788.11(e) by communicating, by
5 telephone or in person, with the debtor with such frequency as to be unreasonable
6 and to constitute an harassment under the circumstances.

7 29. Defendants violated Civil Code § 1788.12(a) by communicating orally
8 with plaintiff Bruce Richard's employer for purposes other than verifying
9 employment.

10 30. Defendants violated Civil Code § 1788.12(b) by communicating
11 information regarding plaintiffs' alleged debt to members of their family other than
12 a spouse.

13 31. Defendants violated Civil Code § 1788.13(a) by communicating with
14 Bruce Richard other than in the name either of the debt collector or the person on
15 whose behalf the debt collector is acting.

16 32. Defendants violated Civil Code § 1788.13(j) by making the false
17 representation that a legal proceeding would be instituted unless plaintiffs made a
18 payment.

19 33. Defendants violated Civil Code § 1788.17, incorporating by reference
20 15 U.S.C. § 1692c, by failing to cease contact with plaintiffs upon being notified
21 that they refused to pay the alleged debt, and by communicating with third parties
22 in violation of 15 U.S.C. § 1692b.

23 34. Defendants violated Civil Code § 1788.17, incorporating by reference
24 15 U.S.C. § 1692d, by engaging in conduct the natural consequence of which was
25 to harass, oppress, or abuse plaintiffs in connection with the collection of an alleged
26 debt.

27 35. Defendants violated Civil Code § 1788.17, incorporating by reference
28 15 U.S.C. § 1692e, by using false, deceptive, or misleading representations or

1 means in connection with the collection of a debt.

2 36. Defendants violated Civil Code § 1788.17, incorporating by reference
3 15 U.S.C. § 1692f(6), by using unfair or unconscionable means to collect or attempt
4 to collect an alleged debt.

5 37. As a proximate result of defendants' violations of the Rosenthal Act,
6 plaintiffs have been damaged in amounts which are subject to proof. Plaintiffs are
7 entitled to recover her actual damages pursuant to Civil Code § 1788.17,
8 incorporating by reference 15 U.S.C. § 1692k(a)(1), or in the alternative, Civil
9 Code § 1788.30(a).

10 38. Defendants' violations of the Rosenthal Act were willful and knowing.
11 Plaintiffs are entitled to recover statutory damages of \$1,000 per defendant
12 pursuant to Civil Code § 1788.17, incorporating by reference 15 U.S.C. §
13 1692k(a)(2)(A), and Civil Code § 1788.30(b).

14 39. Plaintiffs are entitled to recover their attorneys fees and costs pursuant
15 to Civil Code § 1788.17, incorporating by reference 15 U.S.C. § 1692k(a)(3), or in
16 the alternative, Civil Code § 1788.30(c).

17 WHEREFORE, plaintiff prays for relief as set forth below.

18 **THIRD CAUSE OF ACTION**
19 **(Against all Defendants for Invasion of Privacy)**

20 40. Plaintiffs reallege and incorporate herein by reference the allegations
21 of all paragraphs above.

22 41. Plaintiffs had and continue to have a reasonable expectation of privacy
23 with respect to their private lives, home, and workplace.

24 42. Defendants seriously invaded plaintiffs' right to privacy in a manner
25 which constituted an egregious breach of social norms.

26 43. As a proximate result of defendants' conduct, plaintiffs have suffered
27 damages in an amount to be determined according to proof.

28 44. Defendants acted with malice, oppression, and/or fraud towards
plaintiffs within the meaning of Civil Code § 3294, thereby entitling them to an

award of punitive damages. Defendants' corporate officers, directors, or managing agents are personally guilty of oppression, fraud or malice, had advance knowledge of the unfitness of the employees who acted towards plaintiff with malice, oppression, or fraud, employed such employees with conscious disregard for the rights or safety of others, and/or themselves authorized or ratified the wrongful conduct or knowingly accepted and retained the benefits of the wrongdoing.

WHEREFORE plaintiff prays for relief as set forth below.

FOURTH CAUSE OF ACTION

(By Plaintiff Kelly Richard Against all Defendants for Intentional Infliction of Emotional Distress)

45. Plaintiffs reallege and incorporate herein by reference the allegations of all paragraphs above.

46. Defendants engaged in extreme, outrageous and unreasonable acts with respect to plaintiff Kelly Richard, with a willful intent to injure her. These acts went beyond the bounds of decency expected in a civilized society.

47. Defendants intended to cause plaintiff to suffer emotional distress, and/or engaged in their outrageous conduct with reckless disregard of the probability of causing plaintiff to suffer emotional distress.

48. As a direct and proximate result of defendants' outrageous conduct, plaintiff suffered severe mental distress, mental suffering, and/or mental anguish, including fear, embarrassment, anxiety, worry, humiliation, and indignity.

49. As a proximate result of defendants' conduct, plaintiff has suffered damages in an amount to be determined according to proof.

50. Defendants acted with malice, oppression, and/or fraud towards plaintiff within the meaning of Civil Code § 3294, thereby entitling her to an award of punitive damages. Defendants' corporate officers, directors, or managing agents are personally guilty of oppression, fraud or malice, had advance knowledge of the unfitness of the employees who acted towards plaintiff with malice, oppression, or fraud, employed such employees with conscious disregard for the rights or safety of

1 others, and/or themselves authorized or ratified the wrongful conduct or knowingly
2 accepted and retained the benefits of the wrongdoing.

3 WHEREFORE plaintiff prays for relief as set forth below.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, plaintiff prays for the following relief:

- 6 1. For actual damages;
7 2. For statutory damages;
8 3. For punitive damages;
9 4. For treble damages under the TCPA;
10 5. For pre-judgment interest to the extent permitted by law;
11 6. For an award of attorneys' fees, costs and expenses incurred in the
12 investigation, filing and prosecution of this action; and
13 7. For such other and further relief as the Court may deem just and proper.

14 **DEMAND FOR JURY TRIAL**

15 Plaintiff hereby demands a trial by jury under the United States and
16 California constitutions.
17

18
19 Dated: March 25, 2015

Respectfully Submitted,
TRUEBLOOD LAW FIRM

20
21
22 By: /s/
23 Alexander B. Trueblood

24 Attorneys for Plaintiffs
25 BRUCE AND KELLY RICHARD
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